

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE:

CASE NO. 13-11789-HCM

**ANTHONY MICHAEL BAIMA
JOZLYN PETREASE BAIMA**

DEBTORS

CHAPTER 13

**TRUSTEE'S MOTION TO CLARIFY NON-PAYMENT AND DISCHARGEABILITY OF
CLAIM OF UNITED CONSUMER FINANCIAL SVCS (PACER CLAIM NO. 7)
AND REQUIRE ACTION BY DEBTOR**

This pleading requests relief that may be adverse to your interests.

If no timely response is filed within twenty-one (21) days from the date of service, the relief requested herein may be granted without a hearing held.

A timely response is necessary for a hearing to be held.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Comes now Deborah B. Langehennig, Chapter 13 Trustee (hereinafter "Trustee") in the above-captioned and numbered bankruptcy proceeding, and files this *Trustee's Motion to Clarify Non-Payment and Dischargeability of Claim of UNITED CONSUMER FINANCIAL SVCS and Require Action by Debtor, with Request for Hearing*, and in support thereof would respectfully show the Court as follows:

I.

The above-numbered and captioned case was filed by the Debtors on or about September 19, 2013, and the Order Confirming Plan was entered by the Court on or about December 11, 2013.

II.

Creditor UNITED CONSUMER FINANCIAL SVCS ("Creditor") filed a secured claim in the amount of \$1,737.03 on December 10, 2013. However, Creditor's secured claim is not provided for by the Debtors in the Confirmed Plan. As such, the Trustee is not authorized to make payments on the Creditor's claim.

III.

The Trustee further requests that Debtors be required and allowed 30 days to file a motion to modify the Plan to address the Creditor's proof of claim in question, or object to the Creditor's proof of claim. Should Debtor fail to timely file a motion to modify the Plan to address the Creditor's proof of claim or object to the proof of claim, the Trustee would request that the claim of Creditor not receive disbursement through the Chapter 13 Trustee and not be discharged, and that the automatic stay be lifted as to the Creditor regarding the collateral securing the Creditor's claim.

PRAYER

WHEREFORE, Deborah B. Langehennig, Chapter 13 Trustee, prays that the Court grant her request for relief, that the Debtors be required and allowed 30 days to file a motion to modify the Plan to treat the claim of UNITED CONSUMER FINANCIAL SVCS or object to the claim of UNITED CONSUMER FINANCIAL SVCS, that should the Debtors fail to timely address the claim of UNITED CONSUMER FINANCIAL SVCS, order that the claim of UNITED CONSUMER FINANCIAL SVCS shall not receive disbursement through the Chapter 13 Trustee and shall not be discharged, and that the automatic stay is lifted as to UNITED CONSUMER FINANCIAL SVCS as to the collateral securing the claim in question, and that the Court grant the Chapter 13 Trustee such other, additional and further relief to which she may be justly entitled.

Respectfully Submitted,

/s/ Deborah B. Langehennig
Deborah B. Langehennig
3801 S Capital Of Texas Hwy
Suite 320
Austin, TX 78704-6640
(512) 912-0305

*Proposed order attached as exhibit

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS AUSTIN DIVISION**

IN RE:

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**ANTHONY MICHAEL BAIMA
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DEBTORS

CHAPTER 13

CERTIFICATE OF SERVICE

I, Deborah B. Langehennig, certify that a true and correct copy of the Chapter 13 *Trustee's Motion to Clarify Non-Payment and Dischargeability of Claim of UNITED CONSUMER FINANCIAL SVCS and Require Action by Debtors, with Request for Hearing* has been mailed by US Mail (unless otherwise indicated below) to the Debtors, Debtors' Attorney of Record, and all creditors at the addresses listed below on June 30, 2014.

ANTHONY MICHAEL BAIMA
JOZLYN PETREASE BAIMA
14511 OLIPHANT ST
AUSTIN, TX 78725

RAY FISHER
PO BOX 684565
AUSTIN, TX 78768
(SERVED ELECTRONICALLY)

UNITED CONSUMER
FINANCIAL SVCS
% BASS & ASSOCIATES PC
3936 E FORT LOWELL RD STE
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TUSCON, AZ 85712

LORENZ & LORENZ LLP
1705 S CAPITAL OF TX HWY
STE 401
AUSTIN, TX 78746

U.S. TRUSTEE (SERVED ELECTRONICALLY)
903 SAN JACINTO, SUITE 230
AUSTIN, TX 78701

Respectfully submitted,

/s/ Deborah B. Langehennig

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3801 S Capital Of Texas Hwy
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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

IN RE:

CASE NO. 13-11789-HCM

ANTHONY MICHAEL BAIMA
JOZLYN PETREASE BAIMA

DEBTORS

CHAPTER 13

ORDER GRANTING TRUSTEE'S MOTION TO CLARIFY
NON-PAYMENT AND DISCHARGEABILITY OF CLAIM OF UNITED
CONSUMER FINANCIAL SVCS (PACER CLAIM NO. 7)
AND REQUIRING ACTION BY DEBTORS

Came on to be considered by the Court in the above-captioned and numbered bankruptcy proceeding the Chapter 13 Trustee's *Motion to Clarify Non-Payment and Dischargeability of Claim of UNITED CONSUMER FINANCIAL SVCS and Require Action by Debtor, with Request for Hearing*. The Court, having considered the merits of the *Motion*, is of the opinion that such *Motion* should be GRANTED.

Accordingly, it is **ORDERED, ADJUDGED AND DECREED** that the Trustee's motion is GRANTED, and Debtors shall file a motion to modify the Chapter 13 Plan to address the proof of claim of UNITED CONSUMER FINANCIAL SVCS or object to the claim of UNITED CONSUMER FINANCIAL SVCS within 30 days from the date of entry of this Order. It is further

ORDERED, ADJUDGED AND DECREED that should and the Debtors fail to timely

file a motion to modify the Chapter 13 Plan to address the proof of claim of UNITED CONSUMER FINANCIAL SVCS or object to the claim of UNITED CONSUMER FINANCIAL SVCS within 30 days from the date of entry of this Order, the claim of UNITED CONSUMER FINANCIAL SVCS, in the amount of \$1,737.03, shall not receive disbursements through the Chapter 13 Trustee in this case. It is further

ORDERED, ADJUDGED AND DECREED that should the Debtors fail to file a motion to modify the Chapter 13 Plan to address the proof of claim of UNITED CONSUMER FINANCIAL SVCS or object to the claim of UNITED CONSUMER FINANCIAL SVCS within 30 days from the date of entry of this Order, the claim of UNITED CONSUMER FINANCIAL SVCS, shall not be discharged in the Debtors' Chapter 13 Case.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that should the Debtors fail to file a motion to modify the Chapter 13 Plan to address the proof of claim of UNITED CONSUMER FINANCIAL SVCS or object to the claim of UNITED CONSUMER FINANCIAL SVCS within 30 days from the date of entry of this Order, the automatic stay shall be and is hereby lifted as to UNITED CONSUMER FINANCIAL SVCS regarding the collateral securing the claim of UNITED CONSUMER FINANCIAL SVCS as of the 31st day following entry of this Order.

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Prepared by:

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